

SO ORDERED.

SIGNED this 5th day of May, 2020.



Lena Mansori James
LENA MANSORI JAMES
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

In Re:)	
)	CASE NO. 20-10247
Randolph Hospital, Inc. d/b/a Randolph Health,)	
)	CHAPTER 11
)	
Debtors. ¹)	

AGREED ORDER AUTHORIZING THE APPOINTMENT OF A PATIENT CARE OMBUDSMAN PURSUANT TO 11 U.S.C. § 333

THIS MATTER came before the Court on the Debtors’ motion for an order, pursuant to 11 U.S.C. § 333(a)(1)² and Federal Rule of Bankruptcy Procedure 2007.2, determining that the appointment of a patient care ombudsman (“PCO”) is not required in this jointly administered bankruptcy case (Docket NO. 18, the “Motion”). On April 6, 2020, the Court entered its Order Granting, on an Interim Basis, the Debtors’ Motion for an Order that the Appointment of a Patient Care Ombudsman is Unnecessary and Continuing Hearing to Determine Matter on a Final Basis (Docket No. 151, the “Interim Order”). As set forth in the Interim Order, the Debtors are

¹ The Debtors are Randolph Hospital, Inc. d/b/a Randolph Health, Case No. 20-10247; Randolph Specialty Group Practice, Case No. 20-10248; MRI of Asheboro, LLC d/b/a Randolph MRI Center, Case No. 20-10249.

² All citations to statutory sections refer to Title 11, United States Code, unless otherwise indicated.

“healthcare businesses” subject to Bankruptcy Code § 333 and they timely filed the Motion for an Order finding a PCO to be unnecessary. The Debtors supported the Motion with the sworn declaration of Dr. Charles West, the chief medical officer at Randolph Hospital (Docket No. 120), which described the Debtors existing quality management procedures and internal safeguards, the external state and regulatory oversight of the Debtors, and the statistics and grades the Debtors’ received in recent reviews. As the Court noted in the Interim Order, however, the Court must consider the Motion against the backdrop of the COVID-19 pandemic, which has prompted expansive stay-at-home orders, left thousands of businesses shuttered and employees furloughed, and presented monumental challenges to hospitals and health care workers trying to manage the influx of new patients. In addition, on March 23, 2020, the Secretary of the North Carolina Department of Health and Human Services requested that all hospitals and ambulatory surgery centers suspend all elective and non-urgent surgeries and procedures. As a result, the Court in the Interim Order allowed the Debtors to maintain the status quo with regard to its existing monitoring and oversight programs for an Interim Extension Period, but scheduled a final hearing to allow for additional evidence regarding their efforts to protect patient care during the COVID-19 pandemic.

Following entry of the Interim Order, the Debtors conferred with the Bankruptcy Administrator and, in light of the Debtors’ desire for their medical staff to remain completely focused on patient care, the Debtors and Bankruptcy Administrator have agreed to the appointment of Melanie L. Cyganowski as PCO pursuant to the terms of this Agreed Order. Accordingly,

IT IS HEREBY ORDERED THAT:

1. The Court hereby orders the appointment of a PCO. By consent, the Bankruptcy Administrator hereby appoints Melanie L. Cyganowski as PCO for the Debtors. The PCO’s authority is expressly limited to the duties specifically defined in Bankruptcy Code § 333(b).

2. In light of travel restrictions and the need to minimize personal contact during the COVID-19 pandemic, the PCO shall conduct her duties by telephone or videoconference to the maximum extent possible.

3. The PCO shall have access to and review confidential patient records as necessary and appropriate to discharge the duties and responsibilities under this Order, provided, however, that the confidentiality of such records are protected as required under non-bankruptcy law, including without limitation the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191) and any amendments or implementing regulations (“HIPAA”), and the Health Information Technology for Economic and Clinical Health Act (enacted as part of Pub. L. 111-5), and any amendments or implementing regulations (“HITECH”), including without the limitation the Final Omnibus Privacy Regulations in 45 C.F.R. Parts 160 and 164 (“Final HIPAA Rules”).

4. In the interests of judicial economy and to avoid confusing the Debtors’ patients, the PCO will not personally serve all individual patients pursuant to Fed. R. Bankr. P. 2015.1(a). Alternatively, the PCO will work with the Debtors to post a notice informing patients of the PCO’s appointment, duties, and availability. The notice shall be posted at Randolph Hospital’s main campus and on the website of the Debtors’ claims and noticing agent, Epiq Corporate Restructuring, LLC, at <https://dm.epiq11.com/RandolphHealth>. The notice will include a statement that PCO reports are available through the website, through the PCO, and through Debtors’ counsel.

5. The Debtors are authorized to compensate and reimburse the PCO subject to the procedures set forth in the Final Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals (Docket No. 140) and Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable orders of this Court. Notwithstanding

anything to the contrary contained herein, any payment made or to be made under this Order shall be subject to the requirements imposed on the Debtors under the orders of this Court approving the use of cash collateral by the Debtors and any budget in connection therewith. The total amount of the Carve-Out for the PCO and her law firm in the Budget (as defined in the orders approving cash collateral) for the duration of these Cases shall not exceed \$75,000, unless the Court orders otherwise after notice and a hearing.

6. The Debtors are directed to serve a copy of this Order on parties as required by the Order Implementing Certain Notice and Case Management Procedures (Docket # 134) within three (3) days of entry of this Order and to file a certificate of service with the Clerk of Court.

WE CONSENT:

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